

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YOU YOU XIA, PETER CLASEN and
CHULEEPORN PHUTRAKUL, individually
and on behalf of all others similarly situated,
OF

08-cv-4415 (JGK)

DECLARATION

CHULEEPORN

PHUTRAKUL

Plaintiffs,

-against-

BYO CO. (USA), LTD. d/b/a EN
and REIKA YO,

Defendants.

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I, CHULEEPORN PHUTRAKUL, having personal knowledge
of the facts below, declare the truth of the following under penalty of
perjury:

1. I submit this Declaration in support of Plaintiffs' motion
to certify this case as an FLSA collective action and as a Rule 23 class
action. I currently reside at 2958 Murdock Rd. Wantagh NY 11793.

2. I understand that serving as a class representative is an
important responsibility, and that I am required to actively participate
in the case, review pleadings, be deposed, testify at trial and otherwise
assist and monitor the attorneys for the class. I am educated (I have
two Bachelor's degrees), well-organized and ready, willing and able to

represent the interests of the class of about 55-60 past and present waitstaff employees of EN.

3. For the past several months I have sought to fulfill my duty as a named class representative by actively providing Mr. Lucas with information (by phone, by email, and in person) regarding Defendants' structure, operations, and tip pooling practices, and I will continue to assist Mr. Lucas in any way that I can on behalf of the class.

4. I understand that I am duty-bound to monitor counsel's handling of this case, and am very satisfied with thoroughness and high level of preparation that Mr. Lucas and Mr. Sack have demonstrated to date.

5. To the best of my knowledge, there are no conflicts of interest between me and any of EN's past or present waitstaff employees.

6. I understand that there is no guarantee of success or recovery, and I hereby affirm my responsibility to pay for litigation costs in the event that I am required to do so, as I am willing to pay my fair share.

7. I reviewed and approved the Complaint before it was filed, so I will not repeat the facts therein. Nor will I unnecessarily

repeat the facts that are already set forth in the accompanying Declaration of You You Xia.

8. I am genuinely interested in helping EN's past and present waitstaff employees obtain the back tips and wages that are rightly theirs, and I ask that this Court permit this action to be maintained as a class action so that this goal can be achieved.

WHEREFORE, I respectfully ask that this Court grant Plaintiffs' motion for class certification.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 28, 2008.

Wantagh, New York



CHULEEPORN PHUTRAKUL